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Filing date: **03/29/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	77589558
Applicant	Adventist Health System/Sunbelt, Inc.
Applied for Mark	HEALTH VILLAGE
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Submission	Required Disclaimer to Set Aside Decision
Attachments	Health Village IC 41 Required Disclaimer.tif ( 2 pages )(70698 bytes )
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Date	03/29/2010

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In re Application for	"HEALTH VILLAGE"	)	Law Office 108
		)	
Serial No.:	77/589558	)	Trademark Attorney
		)	Heather A. Sapp
Filed:	October 9, 2008	)	
		)	
Applicant:	Adventist Health System/Sunbelt, Inc.	)	
		)	

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**APPLICANT'S REQUIRED DISCLAIMER**  
**TO SET ASIDE TTAB'S DECISION**

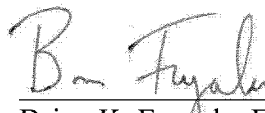
On March 5, 2010, the Trademark Trial and Appeal Board ("TTAB") affirmed the Examining Attorney's refusal to register Applicant's mark based on the requirement for a disclaimer. Pursuant to Trademark Rule 2.142(g), 37 C.F.R. §2.142, Applicant submits the following disclaimer of the term "HEALTH" in order to set aside the TTAB's decision and allow registration of Applicant's mark.

The Examining Attorney has requested that the Applicant disclaim exclusive rights to the word "HEALTH" apart from the mark as shown. Although Applicant is of the opinion that "HEALTH" is suggestive as used in this context, an appropriate disclaimer is added solely to further the application toward publication. As such, no claim is made to the exclusive right to use "HEALTH," apart from the mark as shown. The submission of this disclaimer is not intended as an admission or concession that "HEALTH" is descriptive within the context of the mark as a whole and is without prejudice as to any common law or other rights Applicant may have in the word "HEALTH" alone or in combination.

Applicant acknowledges that the U.S. Patent and Trademark Office employs a standard disclaimer statement in the registration certificate as follows: "No claim is made to the exclusive

right to use HEALTH, apart from the mark as shown.” TMEP 1213.08(a) (6th ed. 2009). However, such statement does not affect the rights of the registrant with respect to the scope of its protection. In re Owatonna Tool Co., 231 USPQ 493 (Comm’r Pat. & T 1983). Consequently, an applicant may make other forms of disclaimers of record (such as above) as long as the disclaimer is acceptable to the Examining Attorney. Id.

Applicant respectfully submits this required disclaimer to the TTAB on March 29, 2010.



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